

DRAFT**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA****Telecommunications Division
Public Program Branch****RESOLUTION T-16703
Date: December 5, 2002****R E S O L U T I O N**

RESOLUTION NO. T-16703. TO ESTABLISH A TRANSITION PLAN FOR THE DEAF AND DISABLED TELECOMMUNICATIONS EQUIPMENT AND SERVICE PROGRAMS (PUBLIC UTILITIES CODE SECTION 2881, ET SEQ.) IN ORDER TO COMPLY WITH PUBLIC UTILITIES CODE SECTIONS 270.1, 278, 278.5 and 2881.4(b).

Summary

This resolution adopts a transition plan for the Deaf and Disabled Telecommunications Equipment and Service Programs (DDTP), (as established by Public Utilities (PU) Code Section 2881, et seq.) to comply with PU Code Sections 270.1, 278, 278.5 and 2881.4(b).

The DDTP Administrative Committee (DDTPAC) submitted its recommendation report to the Commission on October 1, 2002 as required by PU Code Section 278.5(b). A copy of the report is attached as Appendix A. As noted in its report, the DDTPAC's primary concern is "ensuring the transition be as seamless as possible."

The DDTPAC makes five major recommendations to the Commission in its report: 1) the DDTP should be administered by another State of California (State) agency with a greater emphasis on consumer services, 2) State staff overseeing the DDTP should have experience working with deaf and disabled communities, 3) the committees advising the State on the DDTP should include the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC) (formerly the DDTPAC), the California Relay Service Advisory Committee (CRSAC), and the Equipment Program Advisory Committee (EPAC), 4) the State should award a sole-source contract to provide the DDTP services, and 5) the State should allow an overlap between the current administrator of the program and the future administrator.

The Telecommunications Division (TD) reviewed the recommendations from the DDTPAC and comments from the October 9, 2002 public workshop regarding the DDTP Transition. Based on that review, the Public Utilities Code, state contracting and

civil service requirements, and an emphasis on continuous DDTP service delivery, TD makes the following general recommendations: 1) the Commission continue to oversee the DDTP, 2) one Invitation for Bid (IFB) be issued resulting in a contract to manage the operations of the DDTP on a two-year interim basis, 3) five new regulatory analysts be hired, with funding from the DDTP end-user surcharge, to oversee the contract and the financial transactions of the program, and 4) the Commission continue to be advised by the CRSAC, EPAC and the TADDAC. This resolution adopts the TD recommendations.

Background

The Commission established the DDTP to implement three legislative mandates: PU Code Section 2881(a) authorizes the provision of TTYs to deaf or hard of hearing individuals, PU Code Section 2881(c) authorizes the provision of other specialized telecommunications equipment to consumers with hearing, vision, mobility, speech, and cognitive disabilities, and PU Code Section 2881(b) uses third-party intervention (also known as the California Relay Service) to connect consumers who are deaf or hearing impaired with hearing parties. The DDTP is managed by an external staff. An administrative committee, the DDTPAC, administers the DDTP and oversees its finances. Two advisory committees, EPAC and CRSAC, advise the DDTPAC on the equipment and relay service programs.

Senate Bill (SB) 669, passed by the legislature in 1999, changes the current operations of the Commission's public programs in two ways: 1) it transfers the funds for the programs from a bank trust fund to the State Treasury and 2) it changes the duties of the administrative committees to those of an advisory board. The Commission successfully implemented the requirements of SB 669 by October 1, 2001 for the California High Cost Fund-A (CHCF-A), California High Cost Fund-B (CHCF-B), California Teleconnect Fund (CTF), and Universal Lifeline Telephone Services (ULTS) programs.

These changes also affect the DDTP, creating a dilemma. Because the DDTP funds are transferred into the State Treasury, the funds become State funds. State funds can only be used to pay State employees or contractors and the current employees of the DDTP are neither. Beginning in 1999, the Commission reviewed the options for solving this dilemma. The Commission issued a report to the Legislature in May 2001 addressing the options. The report included a recommendation to secure legislative authority for the Commission to contract with outside entities for the provision of the DDTP services. Because of the size of the DDTP and the complexities involved, the Commission needed an extension of the original deadline for the transfer of the funds. AB 1734, signed into law in June 2002, 1) authorizes the Commission to contract for the DDTP services, 2) provides for an extension of the deadline from July 1, 2002 to July 1, 2003, and 3) creates the TADDAC as an advisory board to the Commission.

Appendix B illustrates the relationship between the Commission, the DDTP and the DDTP committees both before and after the implementation of the changes described above.

Discussion

Advisory Committees

DDTPAC Recommendations

Although PU Code Section 278.(a)(1) makes reference only to the TADDAC as DDTP advisors to the Commission, the DDTPAC recommends that the Commission maintain a committee structure similar to the current structure, where the EPAC and the CRSAC make recommendations to the DDTPAC. In the new structure, the DDTPAC would be replaced by the TADDAC. The duties of each of the committees would remain the same except for any fiduciary responsibilities. Regarding the membership of the committees, the DDTPAC recommends that existing DDTPAC members continue their terms of appointment as members of the TADDAC beginning July 1, 2003 and that members serving on the CRSAC and EPAC should also continue their appointments past the July 1, 2003 transition deadline. The DDTPAC also recommends that a lead person from the contractor and the Commission be non-voting members of the TADDAC, CRSAC and EPAC. Finally, the DDTPAC recommends that the Commission provide the three committees copies of all reports that the Commission requires of the contractors.

TD Recommendations

Both the CRSAC and EPAC have been instrumental in the past successes of the program including the implementation of Speech-to-Speech as part of the CRS and the inclusion of an artificial larynx on the list of equipment available to qualified Californians. Several CRSAC and EPAC members represent consumer groups and are users of the program. As users, they are able to monitor the quality of the services and equipment used. Additionally, they can recognize deficiencies and provide options for solutions. TD agrees with the importance of the CRSAC and the EPAC and recommends that all three committees continue in their role as advisors to the Commission.

In regards to the structure of the committees, members of the current EPAC and CRSAC expressed concern that issues they consider important do not always make it past the DDTPAC to the Commission. TD considered recommending that the EPAC and CRSAC should be equal to the TADDAC and should make recommendations directly to the Commission. However, participants at the

October 9 workshop adamantly agreed that the Commission should receive recommendations from one source, not three; thereby creating a way to prioritize consumer recommendations and eliminate duplication. TD agrees that having one source of recommendations facilitates the delivery and implementation of recommendations and recommends maintaining the current structure whereby the EPAC and CRSAC submit recommendations to the TADDAC.

TD reviewed the membership of the three committees. The implementation of SB 669 and AB 1734 does not require any changes in the membership of the committees, but does require additional responsibilities of Commission staff. Furthermore, the revised fiduciary responsibilities of the Commission will include not only TD, but also the Information And Management Services Division (IMSD) and Legal Division (LD).

Current charters for the DDTP committees state that the Commission Executive Director appoints a representative to each committee. Currently, the three Commission representative positions are filled by three different individuals from three different divisions of the Commission. TD contends that having the same Commission staff member on all three committees may lead to improved communication between the committees and Commission staff.

In order to provide improved and consistent communications between the committees and the Commission, TD recommends that the Commission Executive Director-appointed non-voting member on all three committees be the same person – the lead TD staff member. This committee member will be responsible for maintaining communications between the three committees by reporting to each committee on the activities of the other two committees. TD also recommends that a liaison from both IMSD and LD be appointed as non-voting members of the TADDAC. Given the scope of changes the DDTP must endure over the next six to nine months, TD recommends that other existing members continue their current appointments, which will provide continuity for all three committees. Members of the DDTPAC would be “grandfathered” in as members of the TADDAC on July 1, 2003, continuing their existing appointments.

Workshop participants were divided on the issue of the length of appointments. While many thought that it takes a few years to gain enough knowledge of the program to make educated decisions, many also thought that it is crucial not to have members become complacent in their position. TD recommends maintaining the current appointment limitation of two consecutive appointments for each voting member, but recommends increasing the length of those

appointments from three to four years, beginning with new appointments approved after July 1, 2003.

The DDTPAC and workshop participants expressed concern that the lines of communication between the committees and the contractors would be severed after the transition. Several participants noted that it would be difficult to advise the Commission on DDTP issues if committee members were no longer aware of what was happening with the DDTP. TD agrees that committee members should maintain connections with the program in order to advise the Commission on necessary adjustments. To maintain communications between the program and the committees, TD recommends including language in the contract to manage the DDTP services requiring that the appropriate staff member or members from the contractor attend and actively participate in all three committee meetings. During each committee meeting, contractors will provide reports on the status of the program. The specifics of those reports will be resolved between TD and the contractor, with input from the committees, after a contractor has been selected.

During the October 9 workshop, participants discussed the quantity of meetings required by each committee. In reviewing the practices of the four other public programs administrative committees, TD found that the number of meetings per year ranged from four for the California High Cost Fund-A (CHCF-A) program to twelve for the Universal Lifeline Telephone Service (ULTS) program. While the duties for either program do not include any fiduciary responsibilities, the ULTS Administrative Committee has the added responsibility of making recommendations regarding the marketing of the program. Several EPAC committee members detailed the amount of work entailed in making recommendations on new equipment. CRS committee members noted the technical aspects of the CRS and the amount of time needed by the committee to review technical issues. In order to allow each committee the opportunity to provide adequate and timely advice to the Commission, TD recommends that each committee meet at least monthly. TD also recommends that in addition to the individual monthly committee meetings, a separate day-long meeting be held each February whereby the three committees convene as one to discuss DDTP goals for the next fiscal year.

SB 669 and AB 1734 revise the responsibilities of the public programs administrative committees from those of an administrative nature to those of an advisory nature. Given only those changes, TD recommends maintaining the current responsibilities for the three committees, less any administrative responsibilities.

TD recommends that the Commission direct the Commission Executive Director to prepare for Commission adoption no later than January 31, 2003, an Order Instituting Rulemaking (OIR), which reflect these recommendations. A decision in the OIR proceeding shall be placed before the Commission for its consideration and adoption by May 1, 2003.

Provision of Services

DDTPAC Recommendations

The DDTPAC recommends that, ultimately, the DDTP be overseen by an alternate, more consumer-friendly State agency. In the event that the Commission continues to oversee the DDTP, the DDTPAC recommends that the Commission pursue a sole-source contract to monitor the current and future contracts of the DDTP. A list of those contracts is included in the attached DDTPAC recommendation report. If a sole-source contract is not feasible, the DDTPAC prefers that the Commission issue a Request for Proposal (RFP) for the DDTP services. The Committee members are concerned that if the Commission issued an IFB, the evaluators of the bids would focus too greatly on the bid itself and not on the qualifications of the bidders. The DDTPAC understands the time limitations that the Commission currently faces and recommends that if an IFB process is used to solicit bids, the term of the contract should be two years and an RFP process should be implemented for subsequent contracts.

The DDTPAC recommends that bidder qualifications include 1) the use of existing DDTP equipment and office locations and 2) retaining and hiring staff that reflect the program consumer base and have a sufficient level of experience and sensitivity to deaf and disabled consumer issues. The DDTPAC report does not provide detailed performance standards for the contractor, but it recommends that the Commission staff work with the DDTPAC to develop standards to be included in the IFB. Further, the DDTPAC recommends that future competitive bidding documents include performance standards recommended by the three advisory committees.

TD Recommendations

The DDTP currently provides an array of programs and services to deaf, hearing-impaired and disabled consumers throughout California. Headquartered in Oakland, the DDTP oversees the CRS and operates the California Telephone Access Program (CTAP). CRS provides TDD/TTY users the ability to call or be called by anyone through the use of a communication assistant who relays the call. The CTAP is a network of ways consumers can obtain equipment. Six walk-in centers located in major population centers across the state provide equipment, training for using the equipment and information on other DDTP

services. Equipment at these centers is restocked from a central warehouse facility located in San Jose. The warehouse also provides the equipment that is requested through the call center. The call center provides a main number for consumers to call to 1) order equipment, 2) get information on how to get broken equipment fixed, 3) get information on how to send back equipment, and 4) ask questions on how to use the equipment.

Given the complexities of the DDTP, TD recommends that the transition of the DDTP from external agent to Commission administration be a two-phase process. The first phase would include issuing an IFB to provide the personnel to operate the DDTP, which includes overseeing and promoting the CRS and operating and promoting the CTAP. The contract for this phase would cover a period of two years (June 15, 2003 – June 14, 2005). The DDTP, as an agent of the Commission, currently holds long-term leases for the DDTP headquarters in Oakland and the six walk-in centers located in Fresno, Oakland, Riverside, Sacramento, San Diego, and Santa Ana. Therefore, the contractor would be expected to perform these services at existing locations throughout the state of California.

The second phase of the transition would entail the development and release of an RFP, and the eventual selection of a contractor or contractors to operate the DDTP. The development, release and final selection of a contractor through this process would take place during the time period July 1, 2003 through March 31, 2005. The structure and terms of the contract, resulting from phase two, would be clarified during the development of the RFP. This resolution discusses the details of phase I only.

Two prior audits of the DDTP have pointed out insufficient oversight of the DDTP: AUC Management Report, April 1997 and Bureau of State Audits (BSA) Report, June 2002. The AUC Management Report, initiated by the Commission, identified weaknesses in the general oversight of the program. While the DDTP overcame many of these weaknesses through the implementation of recommendations from the report, several weaknesses continue to exist. Those weaknesses came to light in the resulting report of the BSA audit including 1) the lack of proper controls to determine whether surcharges are being properly remitted to the State; 2) inappropriate, unnecessary or excessive spending; 3) a lack of specific performance measures in contracts; and 4) a leniency in assessing penalties when performance measures are not met.

The transfer of the fiduciary responsibilities of the program from the current staff of the DDTP to the State of California will eliminate the weaknesses described in 1 and 2 above. In order to eliminate the weaknesses described in 3 and 4, and

provide better oversight of contracts, TD recommends that all contracts for the DDTP be between the vendor and the State of California. This will also facilitate the program payment process.

During the October 9 workshop, TD presented preliminary recommendations for the provision of DDTP services—suggesting that two IFBs be issued: one for a service delivery contractor and one for providing marketing and outreach for the program. A great deal of discussion ensued regarding separating out the marketing and outreach efforts from the service delivery contract. Several participants discussed the importance of marketing and outreach efforts to the DDTP. Participants overwhelmingly agreed that marketing and outreach efforts should be included in the service delivery contract.

Although some participants expressed concern over possible additional administrative costs for two contracts, most participants were more concerned about a disconnect between overseeing the delivery of the services and knowing the needs of the services and where those needs exist. A member of the DDTPAC noted that the current operational communication between the marketing and outreach staff and the CRS and CTAP contract management allows staff to know immediately when new equipment or a service change should be advertised to consumers. Another DDTPAC member noted that because the oversight of the call center and the marketing and outreach efforts are housed under one roof, marketing and outreach staff were able to work with the current manager of the call center contract to devise a plan that utilizes unused monthly minutes from the call center contract to make outreach calls to organizations working with communities that could use DDTP services. Without that collaboration, the unused minutes would go wasted and avoidable funds would be spent to contact organizations for possible new consumers.

With these remarks in mind, TD concludes that marketing and outreach efforts are intertwined with the delivery of services. DDTP staff who work at the walk-in centers provide equipment, outreach and market the other services of the program. Marketing and outreach staff who work alongside the CRS and CTAP staff have the intimate knowledge of the equipment and services of the program. TD recommends issuing one IFB for an organization to provide personnel to perform the following services:

- a. Manage contracts under state guidelines, including but not limited to those contracts for the CRS, the warehouses, and call center. Ensure contract compliance. (Contracts managed by the service delivery contractor will be state executed contracts between the Commission and individual vendors.)

- b. Operate the established walk-in centers;
- c. Provide the field operations to reach those consumers without access to walk-in centers;
- d. Provide marketing and outreach efforts to promote the equipment and services programs of the DDTP;
- e. Assist the Commission in providing the necessary support to the advisory committees; and
- f. Provide the non-fiduciary administrative tasks necessary to operate the programs and services of the DDTP.

The mission of the DDTP is to empower all Californians who are deaf or have a disability or impairment to use the telephone to communicate successfully. The Commission holds that TD's strategic goal for the DDTP should be to increase the number of program customers while attaining complete customer satisfaction through an efficient and effectively operated program.

The DDTPAC, in its transition recommendation report, states that the number of deaf and disabled individuals in California is more than three million, and, in fact, could be as high as five million. TD reviewed the annual reports of the DDTP from 1999 through 2001. The 1999 Annual Report states that "In 1999, over 400,000 Californians were using our special telephone equipment to communicate." Page 5 of the 2001 Annual Report states, "Over 350,000 Californians now use DDTP's specialized equipment to improve their lives. Thus from 1999 to 2001, the number of customers using the CTAP decreased from 400,000 to 350,000. During the same time period, the number of calls placed through the CRS has remained stagnant at seven million calls a year. Nationally, the number of people using the telecommunications relay service has declined due to other available options. Given the national decline and the state stagnant trend, TD does not anticipate the California CRS numbers to increase at this time.

In light of these numbers and keeping the strategic goal above in mind, TD has developed a performance standard for increasing the number of program customers:

1. Increase, by 5% annually, the number of customers using DDTP equipment.

The second part of the strategic goal focuses on customer satisfaction. The DDTP surveys its walk-in center customers on satisfaction levels, but does not calculate the results. At this time, the DDTP does not survey all of its customers on satisfaction levels. In the most recent survey, conducted in 1997 by the AUC Management Consultants, 87 percent of customers surveyed rated the DDTP services favorably. Specifically, 83.1 percent found that the equipment satisfied

their needs, 86.9 percent rated the overall service received from the DDTP satisfactory or higher, and 82.2 percent rated the overall CRS satisfactory or higher. Given the results of the past survey and the goal to attain customer satisfaction, TD has developed three additional performance standards focusing on customer satisfaction:

2. Attain a 90% customer satisfaction rating for CTAP.
3. Attain a 90% customer satisfaction rating for CRS.
4. Attain a 90% customer satisfaction rating for DDTP.

Commission internal contracting guidelines require that contract managers: 1) monitor the progress of work to ensure that services are performed according to the specifications of the contract, 2) create a checklist of provisions to be monitored during the contract, and 3) complete a contractor evaluation. TD recommends that the performance standards, as set forth above, be included in the IFB. Once the contractor for these services has been selected, TD will work with the contractor to develop the specific performance measurements required to meet the previously discussed performance standards. These performance measurements as well as the performance standards will be included in the resulting contract. TD also recommends that, beginning three months after the commencement of the contract and every three months through the term of the contract, the contractor shall prepare and submit a report to the Commission on the Contractor's progress in meeting the agreed-upon performance goals.

In order to comply with the July 1, 2003 fund transfer deadline of PU Code Section 270.1(g), financial transactions of the current administrator must be concluded prior to the deadline. To avoid a lack of funds available to the program during this transition time, an advance payment could be made available to the contractor. PU Code Section 2881.4(e) authorizes the Commission to provide for periodic advance payments, of no more than 25 percent of the total annual contract amount, to DDTP contractors. TD recommends that the Commission approve the provision of an advance payment, not to exceed 25 percent of the annual contract, to the organization awarded the contract to oversee and promote the DDTP services. The provisions of the advance payment would be set forth in the final contract.

Commission Oversight Staff

DDTPAC Recommendations

The DDTPAC recommends the establishment of an independently functioning DDTP branch within TD with one branch manager, two Public Utilities Regulatory Analysts (PURA) IVs and two PURA IIIs. All five staff members

should be new state employees with familiarity with the DDTP and sensitivities to the needs of the community. The DDTPAC envisions an easy move of this branch out of the Commission to another state agency for oversight of the DDTP. The move to a different, more “consumer-friendly”, state agency is the ultimate transition goal of the DDTPAC.

TD Recommendations

To oversee the financial transactions of the DDTP and to properly administer the contract to provide the services of the DDTP, the Commission will require additional staff. TD revisited its experience in administering its four other public programs subsequent to the implementation of SB 669. Based on that experience and given the complexity of the DDTP, TD estimates a need for five new permanent positions: one Public Utilities Regulatory Analyst (PURA) IV and four PURA III.

The PURA IV would oversee the contract to provide DDTP services and the financial transactions with the assistance of the four PURA III. The PURA IV and the four PURA III would take over all of the administrative responsibilities of the DDTPAC. The PURA IV would also take over the fiduciary responsibilities of the current Executive Director of the DDTP. Two of the PURA III would take over the fiduciary responsibilities of the Executive Director and current DDTP department managers. Presented below are the duties of each of the new proposed Commission staff.

PURA IV

Program Liaison to oversee the DDTP financial transactions and the contracts to provide the DDTP services. Responsibilities include but are not limited to:

- 1) Overall contract manager for oversight of the service delivery contract,
- 2) Overall responsibility for oversight of all financial transactions of the program including revenues and expenditures,
- 3) Final review and approval of monthly invoices of approximately \$5.8 million to ensure contractor compliance as mandated by state contracting guidelines,
- 4) Final review and approval of approximately 100 monthly program payments to ensure contract compliance,
- 5) Development of an annual budget for Commission review,
- 6) Oversee the monitoring and review of monthly surcharge remittances totaling approximately \$6 million from approximately 450 carriers as mandated by PU Code 2881(f),
- 7) Final review of required reports from contractors to ensure contractual standards are being met,

- 8) Final review of new and/or amended contracts and all documents for a competitive bidding process to ensure compliance with the state contracting guidelines,
- 9) Oversee program compliance and financial audits and at least three annual carrier surcharge remittance audits as mandated by PU Code 274,
- 10) Review and finalize quarterly contractor evaluations,
- 11) Development of Commission documents for program changes or additions, and
- 12) Liaison to TADDAC, CRSAC and EPAC.

Two (2) PURA III

Assist the PURA IV in the management of the DDTP Financial Transactions. Responsibilities include but are not limited to:

- 1) Review the monthly invoices of approximately \$5.8 million,
- 2) Review and process approximately 100 monthly payments while interfacing with IMSD/Fiscal Office,
- 3) Monitor monthly surcharge remittances of approximately \$6 million from approximately 450 carriers to ensure Commission compliance,
- 4) Follow up with carriers not in compliance with surcharge remittances,
- 5) Provide monthly, quarterly and annual reports to the PURA IV regarding all DDTP surcharge remittances, and
- 6) Manage contracts to perform at least three annual carrier surcharge remittance audits.

Two (2) PURA III

Assist the PURA IV in the management of the contract to provide the DDTP services. Responsibilities include but are not limited to:

- 1) Monitor approximately 100 monthly invoices from contractor to ensure compliance with Commission rules and state regulations,
- 2) Collect and review required reports from contractor to ensure compliance with contract standards,
- 3) Process contract amendments,
- 4) Prepare IFB/RFP for new contracts upon expiration of current contracts,
- 5) Work with the contractor to schedule advisory committee meetings,
- 6) Manage contracts to perform annual compliance and financial audits of the program, and
- 7) Prepare quarterly contractor evaluation.

TD recommends five new permanent positions to be employed in the Public Programs Branch: one Public Utilities Regulatory Analyst (PURA) IV and four PURA III.

PU Code Section 278.(d) requires that beginning on July 1, 2003, staffing costs incurred by the Commission for the oversight and administration of the DDTP shall be funded by the DDTP end-user surcharge. TD recommends that the Commission direct that the five new PURAs be funded by the DDTP end-user surcharge.

PU Code Section 2881.4(g) requires that the Commission, to the extent feasible and consistent with state civil service requirements, employ staff overseeing the DDTP who are members of the deaf or disabled communities. TD recommends that the Commission direct the Commission Executive Director to instruct the Information And Management Services Division and other appropriate divisions to work with external organizations dealing with the deaf and disabled communities to assist in the recruitment of individuals to test for the five recommended positions. TD recommends that the five PURAs be required to meet state qualifications for PURAs and have experience in working with Deaf or Disabled communities. TD also recommends that preferred qualifications for the PURAs include experience with contract administration and knowledge of state contracting guidelines.

Transition from External Agent to Contractor

DDTPAC Recommendations

The DDTPAC is primarily concerned that consumers experience no disruption or diminution in service during the transition period. Because of this concern, the DDTPAC recommends an overlap in service between the current staff of the DDTP and the staff of the service contractor. The DDTPAC does not provide a time period for the overlap of service. However, if an overlap is not feasible, the DDTPAC recommends that prior to the July 1 transfer date, an inventory of all equipment, supplies and files (both physical and electronic) be taken and a financial audit of the program be completed.

TD Recommendations

AB 1734 requires that the transition of the administrative DDTP responsibilities must occur no later than June 30, 2003. Based on the Commission's experience in implementing SB 669 as it relates to the ULTS program, TD recommends that several preliminary actions take place during the first six months of 2003. An inventory of all DDTP equipment in the warehouses, walk-in centers, and headquarters should be performed. At the same time, an inventory of all DDTP

office equipment, furniture and supplies at those locations should also be performed. A report of the results of the inventories should be submitted to the Commission. Additionally, a database of the name and location of all physical and electronic files should be developed and submitted to TD. Copies of the electronic files should be submitted to TD for archiving. TD recommends that the Commission direct the current Executive Director of the DDTP to work with TD to devise a work plan for accomplishing these items. A completed work plan with estimates for time and costs incurred should be submitted to the Director of TD no later than January 15, 2003.

In addition to the tasks described above, a process needs to be established for the transfer of the DDTP trust funds to the State Treasury. The Commission successfully transferred the funds of other public programs in October 2001. With this past experience in mind, TD recommends that the Commission direct the Commission Executive Director to work with TD to establish, no later than February 28, 2003, the provisions of the fund transfer.

AB 1734 requires that the responsibility for the financial administration of the program transfers from the DDTPAC to the Commission no later than July 1, 2003. As with the ULTS program, a financial audit of the program should be performed. Because the current staff in its present form will not be employed after June 30, 2003, it is essential to perform and complete an audit prior to that last day. TD recommends that a financial audit of the DDTP be completed prior to June 30, 2003, covering the period July 1, 2002 through March 31, 2003.

Because the staff of the DDTP in its current form cannot be compensated after the funds for the DDTP are transferred on July 1, 2003, a plan for the conclusion of their employment is needed. TD recommends that the Commission direct the DDTPAC to provide a plan to the Commission Executive Director no later than January 31, 2003 that will detail the steps needed to end the employment of the current staff of the DDTP. TD recommends that no later than February 28, 2003, the Commission Executive Director provide a letter of response to the DDTPAC, approving the plan as submitted or requesting modifications.

Because of the complexities of the DDTP described in this resolution, TD agrees with the DDTPAC that an overlap of the current DDTP and staff of the awarded contractor is necessary to provide basic training for the new managerial staff. TD recommends that the Commission approve an overlap of two weeks of the current DDTP staff and the contractor's Executive Director and management staff.

Many of these transition tasks recommended by TD to be implemented prior to July 1, 2003 will increase spending for the DDTP and require a Fiscal Year 2002-2003 DDTP budget augmentation. The costs of these items are yet to be finalized. TD recommends that the Commission require TD to provide the details of the costs of these items in a budget augmentation resolution in early 2003.

Future Recommendations

The DDTPAC made two recommendations to the Commission for future consideration of the DDTP. For the record, these items are 1) transitioning the administration of the DDTP from the Commission to another consumer-oriented state agency, and 2) putting a greater focus on technological advances in telecommunication equipment for the deaf and disabled citizens. At this time, TD has no comment or recommendation for the transition of the DDTP beyond the two-phase transition period.

Timeline

Because of the impending deadline for the implementation of SB 669 and AB 1734, TD developed a timeline for the completion of the recommendations in this resolution. A prior version of this timeline was included as a handout at the public workshop held on October 9, 2002. The timeline, with revisions, is attached in this resolution as Appendix C. TD recommends the approval of the timeline as set forth in Appendix C.

Notice/Protest

On October 1, 2002, the DDTPAC submitted its recommendations for a DDTP transition plan to the five California Public Utilities Commissioners as required by PU Code Section 278.5(b). The DDTPAC also provided an electronic copy of this report for posting on the Commission web site. It can be viewed at:
<http://www.cpuc.ca.gov/static/industry/telco/public+programs/rev+fna1transplandraft9-30+with+attachments.rtf>.

Notice Of Availability Of Conformed Resolution

In the past, the Commission has served hard copies of resolutions on carriers and parties on the appropriate service list(s). To be consistent with the Commission's commitment to utilize the internet for distributing Commission orders and information, TD has sent a letter of notice to members of the DDTPAC, parties of record in I.87-11-031, and participants who signed in at the October 9, 2002 workshop informing them of the availability of the original draft resolution, as well as the conformed resolutions, on the Commission's web site, www.cpuc.ca.gov. In addition, a hard copy of the

conformed copy of this resolution will be provided to all parties of record in I.87-11-031 and members of the DDTPAC.

Comments

In accordance with P.U. Code Section 311(g), TD mailed a copy of the original draft resolution on November 5, 2002 to the parties of record in I.87-11-031.

TD received comments from several sources including the California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc. (Coalition), Deaf and Disabled Telecommunications Program Administrative Committee's Transition Committee (DDTPAC), John Darby, Office of Ratepayer Advocates (ORA), World Institute on Disability (WID) and Hale Zukas. Because of the number of comments, TD has summarized the comments and categorized them according to the issues previously discussed in this resolution. Comments regarding errors have been addressed in the body of the resolution.

Advisory Boards

Overall, the comments received maintained that both the committee structure and committee responsibilities should remain the same as it is currently, except for the elimination of fiduciary responsibilities. Several organizations argued that the intent of SB 669 and AB 1734 was not to remove all of the administrative responsibilities of the committees, but rather only to remove the fiduciary responsibilities. TD contends that the intent of AB 1734 is to "delete the authority of the committee to carry out programs pursuant to the commission's direction, control, and approval" and would "require the committee to advise the commission on certain contracts and agreements related to the[DDTP]." Further, PU Code Section 278 (a)1 states that the TADDAC is created as "an advisory board to advise the commission regarding the development, implementation, and administration" of DDTP.

The Coalition requested that the Telecommunications Devices for the Deaf Interim Placement Committee be moved to the DDTP. Due to the time limitations involved with the DDTP transition, TD asserts that this is not an appropriate time to address this issue. Likewise, the ORA requested that the ratepayer interests be represented on the TADDAC. TD recommends that both of these requests be reiterated during the Order Instituting Rulemaking process.

Finally, the DDTPAC requested that the contractor be a non-voting member of the committees. The DDTPAC argues that this will ensure communication between the committees and contractor. TD contends that contractually requiring the contractor and appropriate staff to attend and actively participate in the committee meetings most

appropriately preserves the lines of communication between the program and the committees.

Provision of Services

Many of those commenting requested that the contract for the provision of the DDTP services be a sole-source contract as they argue was intended by AB 1734. However, AB 1734 never makes reference to sole-source and clearly states that the commission, subject to annual appropriation of funds by the Legislature and consistent with state contracting requirements, may contract with entities for the DDTP services. Commenters have not demonstrated that a sole-source contract is necessary or advisable.

In regards to the IFB, comments requested that all contracts be between the main service delivery contractor and the individual vendors, providing the main contractor with adequate authority to oversee the subcontracts. TD concludes that in order to maintain proper oversight of the DDTP, as required by law, all contracts should be between the vendor and the State of California. The Coalition suggests that if all contracts are between the State and the vendor, then each of the contracts should include language describing the responsibility of the main contractor. TD will keep this in mind when the contracts are assumed by the State on or before July 1, 2003.

Several comments expressed concern that an IFB would result in “minimum wage” employees providing the DDTP services. The draft resolution did not go into details regarding the qualifications of the bidders. However, TD recommends that the IFB require bidders to have employees with significant experience in the telecommunications relay, call center and marketing industries. Further, the employees of the bidder must also have significant experience in working with deaf and/or disabled communities. A bidder must meet these qualifications. Otherwise, the bidder will not be considered.

Comments received addressed the issue of performance measures. Some of those commenting requested workshops in the future to discuss this issue. TD addressed this issue during the October workshop so as to provide an opportunity then for input from the workshop participants. Several October workshop participants opposed performance measures. However, State contracting guidelines require contractor evaluations. In order to evaluate, the Commission needs ways to measure the performance.

TD has been informed that the call volume for the telecommunications relay service has declined nationally. Given this information, TD recommends eliminating from the IFB

the performance standard of an annual 5 percent increase in the number of customers using the CRS. This change has been made in the Discussion section of this resolution.

Commission Oversight Staff

The DDTPAC, WID, Mr. Darby and Mr. Zukas all agree that the Commission oversight staff should be limited. The Coalition argues that there has been a lack of staff familiarity and knowledge about the DDTP and calls for a well-defined unit within the TD. TD's recommendation includes five new staff that will be devoted completely to the DDTP. TD concludes that the five new staff positions will provide sound oversight of the contracts, responsible management of the finances, and improved communications to the program and committees.

Mr. Darby alleges that the five PURAs would not be required to have any experience in program management, customer service or contract management. The draft resolution explicitly notes that the five PURAs would be required to fill the state qualifications for a PURA, as well as have experience working with the deaf and/or disabled communities, and have contract management experience. TD does not expect these positions to provide program management or customer service; that will be the responsibility of the contractors.

Miscellaneous

The DDTPAC requested that future comments, questions or recommendations made by the TADDAC be responded to by the Commission within 30 days. While the Commission may not be able to answer questions or respond to recommendations within 30 days, TD recommends that the Commission provide an acknowledgement of receipt of all correspondences within the 30-day time frame. In order to expedite the response process, TD recommends that the DDTPAC be required to copy the Commission DDTP Liaison on all correspondence to the Commission.

Findings

1. Senate Bill (SB) 669 (1999), which applies to the California High Cost Fund-A (CHCF-A), California High Cost Fund-B (CHCF-B), California Teleconnect Fund (CTF), Deaf and Disabled Telecommunications (DDTP), and Universal Lifeline Telephone Services Programs (ULTS), requires the Commission to:
 - a. Transfer the funds for each of the public programs from trust funds to the State Treasury;
 - b. Revise the responsibilities of the administrative committees from those of an administrative nature to those of an advisory nature; and

- c. Transfer the administrative duties of its public programs from the administrative committees to the Commission.
2. The Commission implemented the requirements of SB 669 on October 1, 2001 for the CHCF-A, CHCF-B, CTF, and ULTS programs. The Telecommunications Division (TD) currently administers these four programs.
3. Assembly Bill (AB) 1734 (2002):
 - a. Authorizes the Commission to contract for the provisions of the DDTP;
 - b. Requires the funds from the DDTP trust account to be transferred to the State Treasury no later than July 1, 2003; and
 - c. Renames the DDTP Administrative Committee (DDTPAC) as the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC).
4. The CRSAC and the EPAC have been instrumental in the past successes of the DDTP.
5. Having one source of recommendations for the DDTP facilitates the delivery and implementation of recommendations.
6. The implementation of SB 669 and AB 1734 requires
 - a. additional Commission staff administrative responsibilities and
 - b. no changes in the membership of the committees
7. TD makes the following recommendations for the advisory committees of the DDTP:
 - a. The CRSAC and EPAC continue to be advisors to the new TADDAC which will, in turn, advise the Commission on issues regarding the DDTP;
 - b. The current Commission Executive Director's appointed non-voting representative to the TADDAC, CRSAC, and EPAC be the TD lead staff assigned to the DDTP;
 - c. A liaison from the Information And Management Services Division (IMSD) and the Legal Division be appointed as non-voting members of the TADDAC;
 - d. Current members of the DDTPAC complete their existing appointments as members of the TADDAC after the July 1, 2003 transition;
 - e. Other existing members of the CRSAC and EPAC continue their current appointments;
 - f. Committee appointments approved after July 1, 2003 be for four years with a limit of two concurrent appointments; and
 - g. The TADDAC, CRSAC and EPAC meet at least monthly.

8. TD recommends that the Commission direct the Commission Executive Director to prepare for Commission adoption no later than January 31, 2003, an Order Instituting Rulemaking (OIR), reflecting the recommendations for the DDTP advisory committees as set forth in this resolution. Further, TD recommends that a decision in the OIR proceeding be placed before the Commission for consideration and final adoption by May 1, 2003.
9. The DDTP is a complex network of programs and services.
10. The marketing and outreach efforts for the DDTP are intertwined with the delivery of the services.
11. Committee members need to have communication with the contractor for the program services in order to advise the Commission on DDTP issues.
12. Commission internal contracting guidelines require contract managers to monitor the progress and quality of work performed for the contract and to provide an evaluation of the contractor.
13. Public Utilities (PU) Code Section 2881.4(e) authorizes the Commission to provide an advance payment, of not more than 25 percent of the annual contract, to the service contractor of the Deaf and Disabled Telecommunications Program.
14. TD recommends that the administrative transition from an external agent to the Commission be a two-phase process, with the first phase being a two-year interim contract resulting from the issuance of an Invitation for Bid (IFB) for the DDTP services as set forth in this resolution and the second phase be the development and release of a Request for Proposal for the DDTP services.
15. TD recommends that the IFB document include the following:
 - a. The provision of services as set forth in this resolution;
 - b. Language requiring relevant contract staff to attend and actively participate in meetings of the TADDAC, CRSAC, and EPAC and provide reports on the status of the program;
 - c. Performance standards and evaluation procedures as set forth in this resolution; and
 - d. Provisions for an annual advance payment to the contractor of not more than 25 percent of the annual contract.
16. TD estimates a need for five additional Public Utilities Regulatory Analysts to oversee the contract for and the financial transactions of the DDTP.

17. PU Code Section 278.(d) requires that beginning on July 1, 2003 staffing costs incurred by the Commission for the oversight and administration of the DDTP shall be funded by the DDTP end-user surcharge.
18. PU Code Section 2881.4(g) requires that the Commission, to the extent feasible and consistent with state civil service requirements, employ staff overseeing the DDTP, who are members of the deaf, disabled, and hearing-impaired community.
19. TD makes the following staffing recommendations for the administrative oversight of the DDTP:
 - a. Subject to legislature authorization, direct the Commission Executive Director to hire one Public Utilities Regulatory Analyst (PURA) IV and four PURA IIIs who meet state qualifications for PURAs, have experience in working with deaf or disabled communities, have experience with contract administration and have knowledge of state contracting guidelines;
 - b. Direct the Commission Executive Director to instruct the Information And Management Services Division (IMSD) and other appropriate divisions to work with consumer groups to recruit individuals from the deaf, disabled and hearing-impaired communities to apply for the new positions; and
 - c. Direct the IMSD to implement the correct procedures to ensure that the five new positions are funded through the DDTP end-user surcharge.
20. TD recommends that the following actions take place prior to the July 1, 2003 transition deadline:
 - a. An inventory of all DDTP warehouse equipment, office equipment, furniture, and supplies be taken;
 - b. A financial audit of the DDTP for the period July 1, 2002 through March 31, 2003 be performed;
 - c. A database listing all physical and electronic files of the DDTP be developed and submitted to TD;
 - d. A copy of all electronic files be created and submitted to TD;
 - e. The Executive Director of the DDTP work with TD to submit to the Director of TD, no later than January 15, 2003, a work plan, to include timetables and estimated costs, for implementing 19a, 19b, 19c, and 19d above;
 - f. The DDTPAC develop and submit no later than January 31, 2003, a work plan for the termination of the current DDTP staff and the Commission Executive Director respond in writing, no later than February 28, 2003, approving or requesting modifications to the plan;
 - g. The Commission Executive Director work with TD to establish the provisions of the fund transfer; and
 - h. An overlap of at least two full weeks between the current staff of the DDTP and management level staff of the future contractor.

21. Preliminary actions needed for the transition will require an increase in the 2002-2003 DDTP Budget.
22. TD recommends that details for an augmentation to the 2002-2003 DDTP budget be set forth in a resolution to be adopted by the Commission after a contractor to provide the DDTP services is selected.
23. TD recommends adoption of the timeline as illustrated in Appendix C.
24. TD's recommendations are reasonable and should be adopted.

THEREFORE, IT IS ORDERED that:

1. The Commission directs the Commission Executive Director to prepare for Commission adoption no later than January 31, 2003, an Order Instituting Rulemaking (OIR), which reflects the recommendations for the charters of the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC), California Relay Service Advisory Committee (CRSAC), and Equipment Program Advisory Committee (EPAC) as advisory committees of the Deaf and Disabled Telecommunications Program (DDTP) as set forth in this resolution. Further, a decision in the OIR proceeding shall be placed before the Commission for its consideration and adoption by May 1, 2003.
2. The administrative transition from an external agent to the Commission shall be a two-phase process, with the first phase being a two-year interim contract resulting from the issuance of one Invitation for Bid (IFB) for the DDTP services as set forth in this resolution and the second phase be the development and release of a Request for Proposal for the DDTP services.
3. The Commission Executive Director shall issue an IFB document which shall include the following:
 - a. The provision of services as set forth in this resolution;
 - b. Language requiring relevant contract staff to attend and actively participate in meetings of the TADDAC, CRSAC, and EPAC and provide reports on the status of the program;
 - c. Performance standards and evaluation procedures as set forth in this resolution; and
 - d. Provisions for an annual advance payment to the contractor of not more than 25 percent of the annual contract.

4. The Commission Executive Director shall:
 - a. Subject to legislature authorization, hire, to oversee the DDTP contract and financial transactions, one Public Utilities Regulatory Analyst (PURA) IV and four PURA IIIs who meet state qualifications for PURAs, have experience in working with deaf or disabled communities, have experience with contract administration and have knowledge of state contracting guidelines;
 - b. Instruct the Information And Management Services Division (IMSD) and other appropriate divisions to work with consumer groups to recruit individuals from the deaf, disabled and hearing-impaired communities to apply for the new positions; and
 - c. Direct MSD to implement the correct procedures to ensure that the five new positions are funded through the DDTP end-user surcharge.
5. The Executive Director of the DDTP shall work with the Telecommunications Division (TD) to develop a work plan, to include timetables and estimated costs, to be submitted to the Director of TD no later than January 15, 2003, for the implementation and completion by June 30, 2003 of:
 - a. An inventory of all DDTP warehouse equipment, office equipment, furniture, and supplies,
 - b. A financial audit of the DDTP for the period July 1, 2002 through March 31, 2003,
 - c. The creation and submission to TD of a database listing all physical and electronic files of the DDTP, and
 - d. The creation and submission to TD of a copy of all electronic files.
6. The DDTP Administrative Committee shall develop and submit to the Commission Executive Director, no later than January 31, 2003, a work plan for the termination of the current DDTP staff to include an overlap of two full weeks of the current staff and management level staff of the future contractor. The Commission Executive Director shall respond in writing, no later than February 28, 2003, approving or requesting modifications to the plan.
7. The Commission Executive Director shall work with TD to establish by February 28, 2003, the provisions of the fund transfer.
8. TD shall develop a resolution, for Commission adoption, which provides details for an augmentation, to include the costs of transition actions as set forth in this resolution, to the Fiscal Year 2002-2003 DDTP budget.
9. The Commission adopts the timeline as set forth in Appendix C.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 5, 2002. The following Commissioners adopted it:

WESLEY M. FRANKLIN
Executive Director

APPENDIX A

**RECOMMENDATION REPORT
SUBMITTED TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION
FOR THE TRANSITION OF THE
DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM**

**SUBMITTED BY THE
DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM
ADMINISTRATIVE COMMITTEE**

RECOMMENDATIONS TO THE
CALIFORNIA PUBLIC UTILITIES COMMISSION
FOR
THE TRANSITION OF THE
DEAF AND DISABLED TELECOMMUNICATIONS
PROGRAM
PURSUANT TO ASSEMBLY BILL 1734

SUBMITTED BY THE
DEAF AND DISABLED TELECOMMUNICATIONS
PROGRAM ADMINISTRATIVE COMMITTEE

October 1, 2002

This report was prepared by:

George (Butch) Zein, Chair,
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The Hard of Hearing, as proxy for John Darby (originally)
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Hale Zukas
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I. EXECUTIVE SUMMARY

This report represents the recommendations of the Deaf and Disabled Telecommunications Program Administrative Committee (Committee) on the transition of the administration of the Deaf and Disabled Telecommunications Program (DDTP) into the California Public Utilities Commission (CPUC or Commission) as required by Assembly Bill (AB) 1734.

The primary concern of the Committee is ensuring the transition be as seamless as possible. Program beneficiaries should experience as little disruption to service as possible during the transition and current high levels of customer service and satisfaction should be maintained during and post transition. Ultimately, the Committee desires that the DDTP be moved to another state agency with a more consumer services and program administration background.

The Committee recommends that a separate branch within the Telecommunications Division be created. It should include 5 staff positions, filled by people familiar with the deaf and disabled communities as intended by AB 1734.

The Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC, known as the Deaf and Deaf and Disabled Administrative Committee [DDTPAC] until July 1, 2003), the California Relay Service Administrative Committee (CRSAC) and Equipment Program Administrative Committee (EPAC) should all be retained. The Charters for the 3 committees should remain unchanged except for the necessary changes regarding fiduciary responsibilities. The Committee also recommends changes to the non-voting membership of each committee.

Although the Committee appreciates the time constraints of the transition, it views the Invitation for Bid (IFB) process as the least desirable avenue for finding a program administrator. A sole-source contract would also fit into the transition timeline, with the added benefit of being able to ensure the contract goes to a highly qualified bidder, not just the lowest. In the alternative, the Committee asks that the Commission award the contract based on an IFB for a limited term and ultimately seek a sole-source contract or use the Request for Proposal process (RFP).

The Committee believes some kind of overlap between the existing program administrator and the newly contracted entity is necessary. The overlap will ensure a smooth "changing of the guard" which in turn ensures users will experience no service disruptions.

The Committee hopes the Commission will give serious consideration to the recommendations contained in this report.

II. BACKGROUND

In 1979 then Governor Edmund G. Brown signed Senate Bill (SB) 597 into law, establishing the Deaf and Disabled Telecommunications Program. SB 597 directed the Commission to design and implement a program whereby each telephone company shall provide a telecommunications device capable of serving the needs of the deaf or hard of hearing at no additional charge to the basic service rate of eligible subscribers.

Over the years, the program has been expanded to include more services and equipment programs and to encompass the disabled community as well. From 1987 through 2001, over

455,000 pieces of equipment were distributed to deaf, hard of hearing or disabled consumers. The California Relay Service (CRS) that provides a dual party relay system, using third party intervention, to connect deaf or severely hearing impaired Californians with hearing persons currently contracts with multiple vendors to provide service 24 hours a day, 7 days a week. In 2003, several more contracts for CRS service will be finalized. As a result of Senate Bill 669 and Assembly Bill 1734, the current operation of the Telecommunications Division's public programs will change on July 1, 2003. That change includes transferring the funds for the DDTP to the State Treasury and altering the current administrative role of the DDTPAC to advisory and changes its name to TADDAC. AB 1734 also required the DDTPAC to provide the Commission, no later than October 1, 2002, recommendations on transitioning the program into the State structure.

III. INTRODUCTION

Transitioning the existing DDTP into a program funded by California ratepayers and administered by the Telecommunications Division of the CPUC requires guidance from the governing body, in this case the CPUC. In developing recommendations for the transition, the Committee was precluded by asserted ethical conflicts from consulting with any DDTP staff member or any division, branch or office of the CPUC. These ethical conflicts supposedly arise because a) all current DDTP staff may have an interest in a particular potential bidder receiving a contract under the new structure, and b) Telecommunications Division staff act in an advisory capacity to the decision makers, i.e. Commissioners, who will consider the

recommendations of this report. Therefore, no Telecommunications Division staff familiar with this proceeding and who will also be advising the Commissioners could act in an advisory capacity to this Committee. The perverse consequence of these perceived ethical conflicts has been to deprive this Committee of much-needed assistance from knowledgeable DDTP and Commission staff. This has seriously impaired the Committee's ability to comply with AB 1734's mandate to provide the Commission with a workable plan for maintaining long-term continuity of existing, high quality telecommunication services to the deaf and disabled communities. Nevertheless, this report is the Committee's best attempt to provide recommendations to the Commission for the transition of the DDTP into the existing Commission structure.

An overriding objective of this Committee is to seek the same level of commitment from the Commission toward the DDTP as it has given universal service. The Commission set a 95% penetration rate as its goal for universal service in the state. While that goal has been exceeded in the broad context of making telephone service available to the whole population, the DDTP, which represents a distinct segment of the population with specific needs, lags far behind. As of yet, a DDTP participation rate goal has not been set, but assessing needs, setting goals, and evaluating success should be a primary function of the TADDAC and the CPUC. The Committee asks the Commission to make a commitment, similar in spirit to that of universal service, to ensure the needs of the deaf and disabled communities are met. For the more than 3 million and possibly as many as 4 to 5 million Californians who are deaf, disabled and hard of

hearing, only 400,000 pieces of equipment have been placed, to perhaps 300,000 users, to assist in accessing telecommunications service. While the Committee acknowledges that an accurate count of the communities' population is not readily available, by all accounts, equipment placement levels do not remotely approximate a 95% penetration rate. And, as California's population increases and ages, the ratio of deaf and disabled community members to pieces of equipment placed will worsen. The Committee asks the Commission to make a concerted effort to counteract this situation.

IV. THE ADVISORY COMMITTEES

AB 1734 amends section 271 of the Public Utilities Code to create

"...the Telecommunications Access for Deaf and Disabled Administrative Committee, formerly the Deaf and Disabled Telecommunications Program Administrative Committee, as an advisory board to advise the commission regarding the development, implementation, and administration of programs to provide specified telecommunications services and equipment to persons in this state who are deaf or disabled..."

The bill is silent on the fate of the EPAC and the CRSAC, which have served consumers very well in an advisory capacity to DDTP and DDTPAC. The Committee strongly recommends that both the EPAC and CRSAC be retained. The two committees provide a vital link between the user communities and program administration. The success of an organization is measured by the quality of the people within it. A primary factor in the success of the DDTP is the people who have formed a partnership with the program through active involvement in the advisory committees.

Within their individual disciplines, the two committees not only help identify and implement the DDTP's mission, they are partners and guardians of the mission by ensuring the organization lives up to its basic commitment to the deaf and disabled communities. Members of the two advisory committees are also users and therefore interact on a daily basis with the equipment and services and are thus able to monitor quality and service and identify unmet needs and possible solutions. Most importantly, CRSAC with its diversity of deaf, late-deafened, hard-of-hearing and STS disabled members is the arbiter of new programs that give the California Relay Service the claim of "Model for the Nation".

For years both advisory committees, CRSAC and EPAC have provided program, contract, outreach and budget analysis concerning the relay service. Without their dedicated expertise and diligent research, programs such as Speech-To-Speech (STS), multi-vendor relay, Video Relay Service and CapTel might not have been implemented at all. CRS will soon be divided into three components: Network Services, Network Management and Relay Call Centers all of which would not have had the smooth transition into a Request For Proposal format, or for that matter gotten CPUC approval were it not for the tireless efforts of the CRSAC and EPAC.

CRSAC members have the institutional and program memory that is so crucial when dealing with subjects such as fluctuations in call volume, average speed of operator answer, blockage issues and quality and speed of operator typing within CRS. Individuals outside the user community cannot match this intimate knowledge of the program and

equipment nor provide such expertise on how the programs can be expanded and improved.

The EPAC was created to ensure that consumer input is considered when making decisions regarding equipment-related changes to the program; maintaining an equipment list; and advising on equipment distribution, service quality and policies. EPAC updates the equipment list and adds new equipment, evaluates new telecommunication technology, and stays abreast of Federal rulings related to technology needed by deaf and disabled people to maintain access to advances and/or modifications in telecommunication. EPAC is charged with recognizing the unmet equipment needs of all subpopulations among the deaf and disabled users, and to make decisions on the most appropriate equipment to address such needs. It reviews existing equipment to determine whether or not it needs upgrading. New equipment is added to the program when the validity of unmet needs is documented. Recent examples are anti-stuttering devices and video relay systems, currently being evaluated. The FAX machines were added to meet the needs of deaf people who cannot communicate on equipment that has a standard TTY keyboard because their language is not compatible, i.e. Chinese and Farsi. The committee's good working relationship with staff is vital to meeting consumer needs.

The CRSAC and EPAC have always been an integral part of ensuring the program reflects the needs of the user communities and stays abreast of technological advances. The Committee believes that the Charters for the DDTPAC, EPAC and CRSAC should be retained, except the duties and responsibilities regarding fiduciary authority of TADDAC.

For the most part, all other aspects of the advisory committee's Charters should remain the same. The existing structure has worked well in the past and is still appropriate within the new organizational structure. Below is a list of changes the Committee thinks are appropriate and justified for each advisory committee. Except as described below, the Committee recommends that the existing membership of each advisory committee be grand fathered into the new structure. Basically, EPAC is responsive to people in California who would otherwise suffer from isolation due to an inability to utilize phone services.

a. Changes to TADDAC

The TADDAC's new general purpose is to function as an advisory committee under the supervision and control of the Commission in connection with the programs mandated by Section 2881 of the Public Utilities Code for providing telecommunications relay services for persons with functional limitations of hearing, vision, movement, manipulation, speech and interpretation of information. The Committee recommends that the Commission transition the existing DDTPAC Charter, minus the fiduciary duties, into the new structure.

In order for TADDAC to fulfill its advisory role to the Commission, it must have complete access to all information flowing from the contracted entity and the contractors it monitors to the Commission. The Committee recommends that TADDAC receive copies of all reports required of the contracted entity and other contractors.

The Committee has a final recommendation for the structure of the TADDAC - the Executive Director or Manager of the contracted entity and DDTP should be a non-voting member of

TADDAC. The information that person brings to the TADDAC will be of great value to TADDAC in fulfilling its role.

b. Changes to CRSAC

The Committee recommends three changes to the membership for CRSAC. It recommends that the CRS manager from the contracted entity, the Executive Director or Manager of the contracted entity and the CPUC DDTP Branch Manager or its designee be added as non-voting members. As previously stated, information is vital to the role of advisor and these people will bring relevant information to CRSAC.

c. Changes to EPAC

The Committee recommends three changes to the membership for EPAC. It recommends that the Equipment Manager from the contracted entity, the Executive Director or Manager of the contracted entity and the CPUC DDTP Branch Manager or its designee be added as non-voting members. Once again, the information provided by the people holding those positions is valuable to the committees.

V. INVITATION FOR BID

The Committee would first like to recommend that the Commission pursue a sole-source contract if that option is at all possible. The DDTP program is unique and as such, very few organizations possess the knowledge or skills regarding the communities and services required to administer the program. Additionally, a sole-source contract takes less time, a benefit given the time constraints of the transition.

Alternatively, the Committee believes a Request For Proposal (RFP) process is a better way to ensure the contract is awarded to the bidder most likely to provide high quality service. In this way, the winning bidder's

performance can be evaluated at an early stage and it can be determined whether or not extending the contract of the new entity is in the best interests of the program, or whether to start the RFP process to find another contractor to perform the necessary services.

The Committee understands that using the Invitation For Bid (IFB) process is more time efficient and therefore preferred by the Commission given the time constraints of the legislative mandate. However, the Committee is concerned about ensuring that high quality customer service and satisfaction continues given that the IFB process awards the contract to the lowest bidder. With that in mind, the Committee recommends that the IFB seek bids for a limited-term, for example, 2 years' duration.

The contracted entity will be responsible for monitoring the contractors, currently numbering 12 or more, that provide service and equipment to the program. A list of those contractors and other relevant information is contained in Attachment A of this report.

a. Existing Offices and Equipment

The Committee recommends that the IFB require that bids be based on using existing equipment and office locations. Most of these resources are under contract or leased with years left before they expire. It is administratively and economically efficient to require bidders to use the existing facilities. To allow bids based on different locations and equipment would result in duplicative costs funded by ratepayers via surcharges on their telephone bills. The Committee believes new locations are not

required, but if such bidding is allowed, the need for new locations and equipment should be adequately justified. A further requirement of the contracted entity should be a centralized location in either greater Los Angeles or San Francisco to facilitate consumer oversight.

b. Minimum Qualifications

The Committee recommends that bidders on the IFB must submit their plan for retention and hiring of staff reflecting the program's consumer base. The bidding entity should demonstrate that its staff possesses a sufficient level of experience and sensitivity to deaf and disabled consumer issues

c. Performance Standards

The Committee feels that there is insufficient time to develop meaningful performance standards for inclusion in this report. However, this Committee will be available to work with Commission staff on performance standards for the IFB to be issued in January 2003.

The Committee further recommends that before the end of the first year of the new contract, CRSAC and EPAC, in conjunction with the new entity's staff, shall supply TADDAC with recommended performance standards that shall be forwarded to the Commission incorporated into an RFP. The Committee sees an RFP as the second phase the Commission must conduct in order to facilitate a professional and responsive bid package for the contracted administration of DDTP. To develop objective performance standards, the needs of the community being served must first be identified. The Committee recommends that the Commission implement some needs assessment and statistical data collection via outreach and marketing efforts and include

the costs of such measures in the 2003/04 DDTP budget. Overall, the Committee is more concerned that the level of service currently received by beneficiaries of the program remains the same or improves under the contracted entity. Therefore, the Committee has no recommendation regarding the specific number of staff needed to perform the duties of overseeing the program, but believes the contract bidders should justify each position included in their bid. Such justification should include the title, duties and responsibilities and salary of each position as well as a break down of the number of hours spent performing individual tasks each month. If the Commission determines that the same number of staff currently used by the DDTP is necessary to maintain existing service levels, the Committee has no objection.

VI. COMMISSION STAFFING FOR THE DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM

The Committee's recommendation for the transition of the DDTP into the Commission structure accomplishes two goals. First, it establishes a separate, wholly independent administrative unit within the Telecommunications Division, staffed with personnel who are familiar with the DDTP and sensitive to the needs of the deaf and disabled community. The second yet equally important goal of this recommendation is to poise the program for the time when it can be moved to another more service and consumer oriented state agency. While the Committee's recommendation plans for the long-term benefits of the program, it also ensures the transition is seamless and transparent to consumers by maintaining the high level of DDTP customer service and satisfaction currently enjoyed by participants in the various programs. The following recommendation discusses

structural changes only as AB 1734 has mandated operational changes. An organizational chart depicting this structure is contained in Attachment B of this report.

The Committee recommends the establishment of a Deaf and Disabled Telecommunications Program (DDTP) Branch, within the Telecommunications Division. The Branch will administer, direct and control all functions related to the operation of the DDTP. The Branch will consist of five positions, a Branch Manager, and four Public Utilities Regulatory Analysts.

The DDTP Branch Manager position will serve as the overall program liaison including all administrative functions of the former Executive Director of the DDTP and the DDTPAC. Its duties will include:

1. Liaison to newly formed TADDAC
2. Oversee the contract for the entity that will be responsible for the operational side of the DDTP.
3. Review reports from contracted entity to ensure all other contractors are complying with the terms of their contracts.
4. Review and oversight of all financial transactions including payments to contractors providing services and equipment to program participants.
5. Oversee preparation of the annual program budget.
6. Review carrier monthly surcharge remittances mandated by P.U. Code 2881 (F).
7. Oversee carrier remittance audits as mandated by P.U. Code 274 and program compliance and financial audits.
8. Provide periodic contractor evaluations.

9. Review all new and/or amended contracts to ensure compliance with state contracting guidelines.

The Branch will also require two PURA IVs, one to perform the administrative duties regarding the financial transactions of the DDTP program and one to act as the liaison to the contractor. Two PURA IIIs will be assigned to assist the PURA IVs with their duties.

For the PURA III and IV responsible for the financial transactions, the duties include:

1. Review invoices
2. Process payments
3. Monitor monthly surcharge remittances from carriers
4. Provide periodic reports on remittances to Branch Manager and Commissioners
5. Manage periodic carrier audit contracts

For the PURA III and IV assigned to manage the contracted entity, the duties include:

1. Review reports to ensure compliance with contractual responsibilities and standards
2. Review invoices for payment to the newly contracted entity and other contracting entities
3. Prepare new contract bids
4. Manage periodic contractor audits
5. Schedule Committee meetings

The Committee believes that legal assistance will also be required and understands that the current Commission structure includes legal assistance to the Telecommunications Division. While the addition of this new Branch may increase the legal division's workload, it should not require an additional staff position.

It is the desire of the Committee that these positions be

incorporated into the CPUC structure while remaining an independently functioning unit. The Committee believes the only way to accomplish this is to create a new branch within the Telecommunications Division rather than combining the DDTP program into the current Public Programs Branch. Establishing a separate branch is for the express purpose of ultimately transitioning the program and the staff positions from CPUC control to another state agency. The Committee and the consumers it represents wish to see the program controlled by an agency whose primary function is administering public programs and whose culture is more consumer service oriented and technologically proactive. The only division within the Commission whose purpose is consumer service is the Consumer Protection and Safety Division. All other divisions are regulatory in nature or provide support for the regulatory functions of those divisions.

AB 1734 added section 2881.4(g) to the P.U. Code. It reads:

The commission shall, to the extent feasible and consistent with state civil service requirements, employ staff overseeing the programs...who are members of the deaf, disabled, and hearing-impaired community.

Clearly it was the intent of the legislature when enacting this statute to ensure that members of the affected communities be involved in the administration of the program. That is also the desire of the Committee and the user communities. It is crucial that familiarity with the programs and the users be a requirement for appointment to these staff positions. Persons with knowledge of the programs and sensitivities to the needs of the community

are better able to advise the Commission on changes to the equipment and service programs. The Commission should design the job descriptions to include such additional qualifications related to members of the deaf, disabled and hearing-impaired communities and programs as possible, while remaining in compliance with civil service regulations.

VII. TRANSITION TO CONTRACTOR

The Committee hopes the Commission will allow for some overlap between the exit of the existing DDTP administrator and the transition to the contracted entity. It is impossible to expect the contracted entity staff to be able to walk into the offices one day and just take over program operations without some guidance from the existing program administrator. The Committee's concern is for the program beneficiaries. As was stated earlier, the Committee's primary concern is that users experience no disruption in or diminution of services. It is hard to imagine that will be the case if a new contractor walks into the program offices one day and takes over without so much as a tour of the offices.

If the Commission determines that no overlap is possible, the Committee recommends several measures to ensure the contracted entity will be able to take over the program with as little disruption as possible. First, there should be a financial audit of the program and the existing DDTP administrator should prepare directories of all paper and electronic files and an inventory of all equipment and supplies. This will give the contracted entity some form of structure regarding the current program operations.

VII. LONG-TERM RECOMMENDATIONS

The Committee wants to take this opportunity to recommend several issues for consideration as long-term goals for the program. First, the Committee feels strongly that the DDTP should no longer fall under the auspices of the CPUC, but be taken over by a state agency with more experience dealing with consumer oriented public programs. The Commission is a regulatory agency charged with a very different set of responsibilities and tasks than those needed to administer the DDTP or any other similar public program. The roles of regulatory body and consumer oriented service provider are many times incompatible. The Committee has not yet identified a specific agency to take over the program, but once an appropriate agency is identified, it will be seeking legislative assistance to achieve such a move. One prospective agency is the Department of Social Services, a state agency whose primary function is to provide services to program beneficiaries. Finally, the Committee is concerned that program administration has a greater focus on ensuring that program benefits and equipment keep up with advances in telecommunications technology. Great technological strides have been made in communication equipment for deaf and disabled citizens and the Committee hopes the Commission will take action to ensure that program participants are not left behind.

VIII. CONCLUSIONS

It is this Committee's opinion that the changes proposed in this report will allow several key events to occur. First, the recommended structure will allow continued community oversight and active participation through TADDAC and the

advice and feedback provided by EPAC and CRSAC. The establishment of a user-community staffed program within the CPUC organizational structure will lead to program independence as well as a program designed by the affected communities for their specific needs.

ATTACHMENT A

California Relay Service - SB 244

Contractors:	Actual Expenses	Budgeted Expenses	Expiration Date
<i>MCI Global Relay</i>	\$ 20,000,475.00	\$ 19,060,313.00	October 11, 2002
Purpose: To serve as the primary provider for the California Relay Service (CRS).			
<i>Sprint</i>	7,035,065.00	7,930,687.00	October 11, 2002
Purpose: To serve as a secondary provider for the California Relay Service (CRS).			
<i>Hesse-Stobbe & Associates</i>	269,628.00	327,000.00	June 2002
Purpose: To provide consulting services to the DDTP in support of the acquisition and implementation of a new structure and contracts for the California Relay Service (CRS).			
<i>TRS Quality Assurance</i>	-	50,000.00	December 31, 2002
Purpose: To conduct CRS test calls for the purpose of evaluating quality of service and contract compliance.			

Customer Call Center - SB 597 & SB 60

<i>Riptide Technologies, Inc.</i>	168,203.00	173,067.00	June 30, 2003
Purpose: To develop, implement, and administer a centralized database for the DDTP's customer and equipment information.			
<i>Communication Service for the Deaf (CSD)</i>	4,611,163.00	4,967,077.00	January 2003
Purpose: Provide a centralized customer contact center (call center) for the DDTP's equipment loan program.			

Equipment Distribution Warehouse - SB 597 & SB 60

Contractors:	Actual Expenses	Budgeted Expenses	Expiration Date
<i>Pacific Network Supply (PNS)</i>	\$ 1,165,678.00	\$ 980,000.00	June 2003
Purpose: To provide a turn-key warehouse facility for the DDTP's centralized distribution center.			
<i>Direct Response Communications (DRC)</i>	1,143,556.00	822,000.00	June 2003

Purpose: To provide warehouse labor pool staff for the DDTP's centralized distribution center with PNS.

Equipment Purchase and Repair - SB 597 & SB 60

<i>Weitbrecht Communications, Inc.</i>	1,481,562.00	1,706, 471.00 (SB 597) 4,368,010.00 (SB 60)	June 23, 2003
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Purpose: To provide specified telecommunications equipment and repair of equipment for DDTP consumers.

<i>PLANTRONICS, Inc. (formerly AMERIPHONE)</i>	1,987,750.00	1,706,471.00 (SB 597) 4,368,010.00 (SB 60)	December 31, 2002
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Purpose: To provide specified telecommunications equipment and repair of equipment for DDTP consumers.

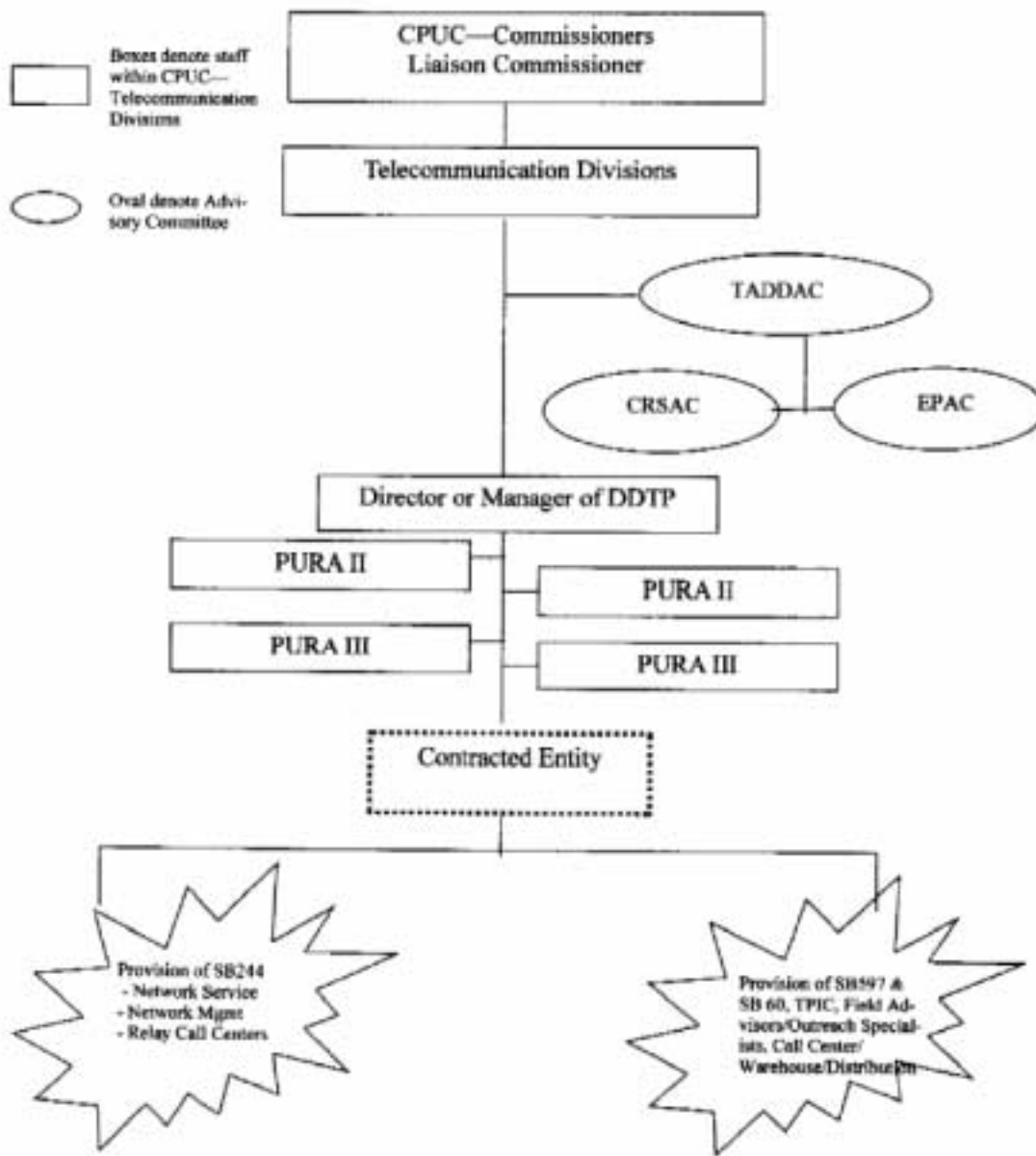
<i>To Be Determined</i>		125,000.00	April 2004
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Purpose: To provide specific telecommunications equipment in the form of a fax machine for DDTP consumers.

<i>To Be Determined</i>		30,000,000.00	June 2008
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Purpose: To provide the California Relay Service.

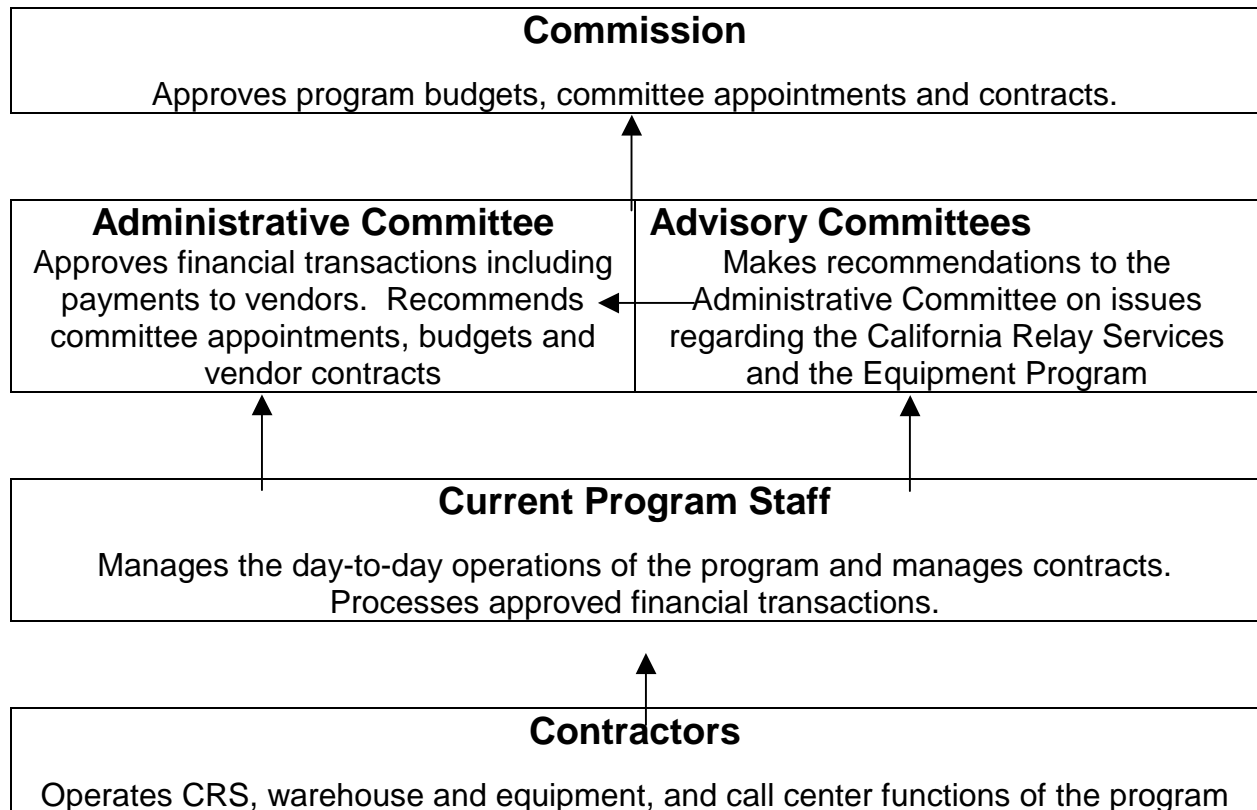
ATTACHMENT B



APPENDIX B

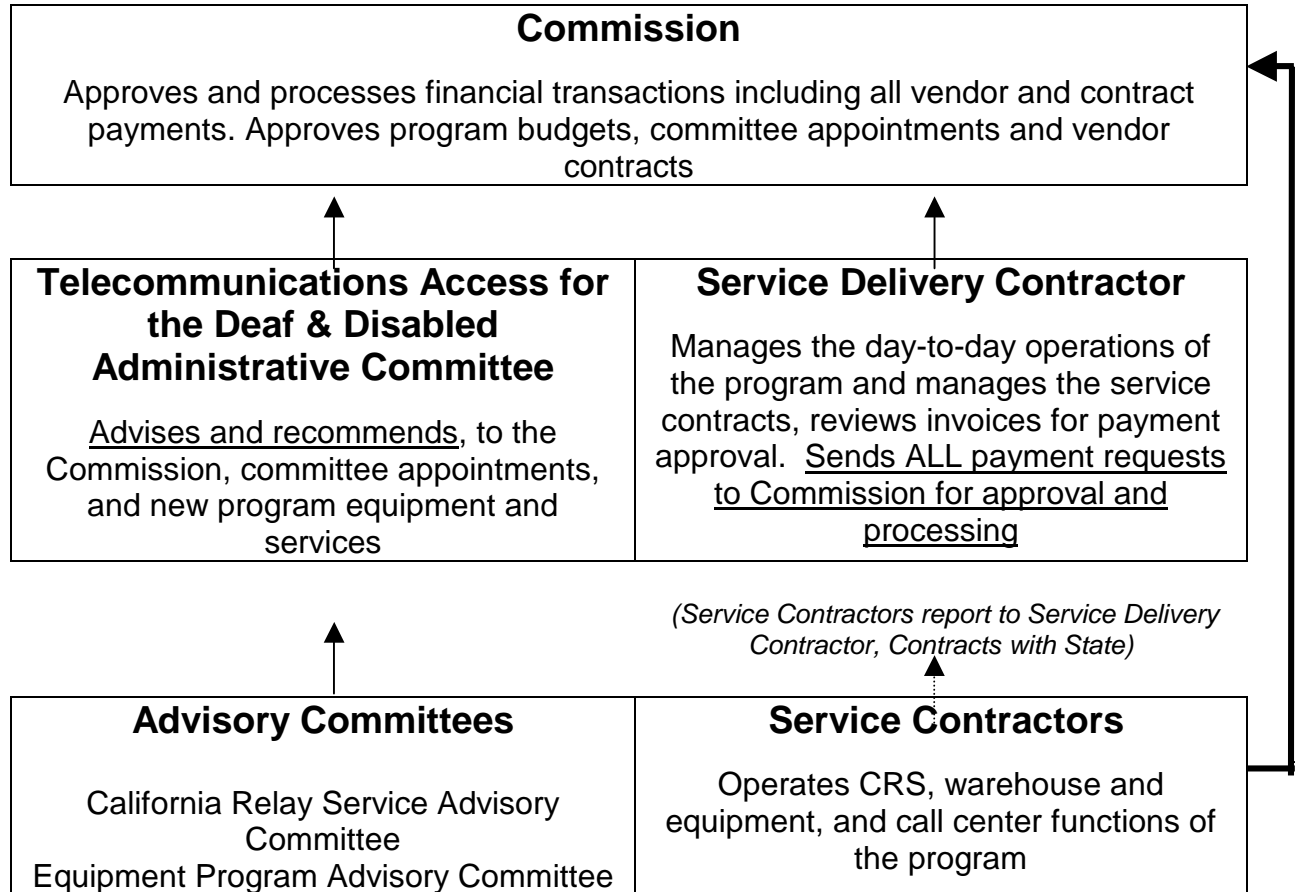
DEAF & DISABLED TELECOMMUNICATIONS PROGRAM RELATIONSHIPS

Current Program Structure



DEAF & DISABLED TELECOMMUNICATIONS PROGRAM RELATIONSHIPS

Transitional Program Structure



APPENDIX C

DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM

TIMETABLE FOR TRANSITION

TELECOMMUNICATIONS DIVISION RECOMMENDED DDTP TRANSITION PLAN TIMELINE



* This dates are approximate and will be finalized following the submission of the DDTP plan on January 15, 2003.

**Subject to budgetary appropriations